

PREPRINT ASSEMBLY BILL No. 2

Proposed by Assembly Members Feuer and Huffman

August 4, 2009



AB 2 2009

An act to amend and repeal Section 10631.5 of, to add Part 2.55 (commencing with Section 10608) to, and to repeal and add Part 2.8 (commencing with Section 10800) of, Division 6 of the Water Code, relating to water.

legislative counsel's digest

Preprint AB 2, as proposed, Feuer. Water conservation: urban and agricultural water management planning.

(1) Existing law requires the Department of Water Resources to convene an independent technical panel to provide information to the department and the Legislature on new demand management measures, technologies, and approaches. "Demand management measures" means those water conservation measures, programs, and incentives that prevent the waste of water and promote the reasonable and efficient use and reuse of available supplies.

This bill would require the state to achieve a 20% reduction in urban per capita water use in California by December 31, 2020. The state would be required to make incremental progress towards this goal by reducing per capita water use by at least 10% on or before December 31, 2015. The bill would require each urban retail water supplier to develop urban water use targets and an interim urban water use target by December 31, 2010, in accordance with specified requirements. The bill would require agricultural water suppliers to implement efficient water management practices and would impose related reporting requirements on agricultural water suppliers. The bill would require the

department, in consultation with other state agencies, to develop a single standardized water use reporting form. The bill, with certain exceptions, would condition eligibility for certain water management grants or loans to urban water suppliers, beginning July 1, 2016, and agricultural water suppliers, beginning July 1, 2013, on the implementation of water conservation requirements established by the bill. The bill would repeal on July 1, 2016, an existing requirement that conditions eligibility for certain water management grants or loans to an urban water supplier on the implementation of certain water demand management measures.

(2) Existing law, until January 1, 1993, and thereafter only as specified, requires certain agricultural water suppliers to prepare and adopt water management plans.

This bill would substantially revise existing law relating to agricultural water management planning to require agricultural water suppliers to prepare and adopt agricultural water management plans with specified components on or before December 31, 2012, and update those plans on or before December 31, 2015, and on or before December 31 every 5 years thereafter. An agricultural water supplier that becomes an agricultural water supplier after December 31, 2012, would be required to prepare and adopt an agricultural water management plan within one year after becoming an agricultural water supplier. The agricultural water supplier would be required to notify each city or county within which the supplier provides water supplies with regard to the preparation or review of the plan. The bill would require the agricultural water supplier to submit copies of the plan to the department and other specified entities. The bill would provide that an agricultural water supplier is ineligible to receive specified state funds if the supplier does not prepare, adopt, and submit the plan in accordance with the requirements established by the bill.

(3) The provisions of the bill would only become operative if _____ of the 2009–10 Regular Session of the Legislature are enacted and become effective on or before January 1, 2010.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Part 2.55 (commencing with Section 10608) is
2 added to Division 6 of the Water Code, to read:

1 PART 2.55. SUSTAINABLE WATER USE AND DEMAND
2 REDUCTION
3

4 Chapter 1. General Declaration and Policy
5

6 10608. The Legislature find and declares all of the following:

7 (a) Water is a public resource that the California Constitution
8 protects against waste and unreasonable use.

9 (b) Growing population, climate change, and the need to protect
10 and grow California's economy while protecting and restoring our
11 fish and wildlife habitats make it essential that the state manage
12 its water resources as efficiently as possible.

13 (c) Diverse regional water supply portfolios will increase water
14 supply reliability and reduce dependence on the Delta.

15 (d) Reduced water use through conservation provides significant
16 energy and environmental benefits and can help protect water
17 quality, improve streamflows, and reduce greenhouse gas
18 emissions.

19 (e) The success of state and local water conservation programs
20 to increase efficiency of water use is best determined on the basis
21 of measurable outcomes related to water use or efficiency.

22 (f) Improvements in technology and management practices offer
23 the potential for increasing water efficiency in California over
24 time, providing an essential water management tool to meet the
25 need for water for urban, agricultural, and environmental uses.

26 (g) The Governor has called for a 20 percent per capita reduction
27 in urban water use statewide by 2020.

28 (h) The factors used to formulate water use efficiency targets
29 can vary significantly from location to location based on factors
30 including weather, patterns of urban and suburban development,
31 and past efforts to enhance water use efficiency.

32 (i) Per capita water use is a valid measure of a water provider's
33 efforts to reduce urban water use within its service area. However,
34 per capita water use may be less useful for measuring relative
35 water use efficiency between different water providers. Differences
36 in weather, historical patterns of urban and suburban development,
37 and density of housing in a particular location need to be
38 considered when assessing per capita water use as a measure of
39 efficiency.

10608.4. It is the intent of the Legislature, by the enactment of this part, to do all of the following:

(a) Require all water suppliers to increase the efficiency of use of this essential resource.

(b) Establish a framework to meet the state targets for urban water conservation identified in this part and called for by the Governor.

(c) Measure increased efficiency of urban water use on a per capita basis.

(d) Establish a method or methods for urban retail water suppliers to determine targets for achieving increased water use efficiency by the year 2020, in accordance with the Governor's goal of a 20-percent reduction.

(e) Establish consistent water use efficiency planning and implementation standards for urban water suppliers and agricultural water suppliers.

(f) Promote urban water conservation standards that are consistent with the California Urban Water Conservation Council's adopted best management practices and the requirements for demand management in Section 10631.

(g) Establish standards that recognize and provide credit to water suppliers that made substantial capital investments in urban water conservation since the drought of the early 1990s.

(h) Recognize and account for the investment of urban retail water suppliers in providing recycled water for beneficial uses.

(i) Require implementation of specified best management practices for agricultural water suppliers.

(j) Support the economic productivity of California's agricultural, commercial, and industrial sectors.

(k) Advance regional water resources management.

10608.8. (a) This part shall not limit or otherwise affect the application of Section 1011.

(b) This part does not limit or otherwise affect the application of Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) This part does not require a reduction in the total water used in the agricultural or urban sectors, because other factors such as changes in agricultural economics or population growth may have

greater effects on water use. This part does not limit the economic productivity of California’s agricultural, commercial, or industrial sectors.

Chapter 2. Definitions

10608.12. Unless the context otherwise requires, the following definitions govern the construction of this part:

(a) “Agricultural water supplier” means a water supplier, either publicly or privately owned, providing water to 10,000 or more irrigated acres, excluding recycled water. “Agricultural water supplier” includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells water for ultimate resale to customers.

(b) “Base daily per capita water use” means:

(1) The urban retail water supplier’s estimate of its average gross daily water use per capita, reported in gallons per capita per day and calculated over a continuous 10-year period ending in 2004 or later.

(2) For an urban retail water supplier that meets at least 10 percent of its 2008 metered retail water demand through recycled water that is delivered within the service area of an urban retail water supplier or its urban wholesale water supplier, the urban retail water supplier may extend the calculation described in paragraph (1) up to an additional five years to a maximum of a continuous 15-year period ending in 2004 or later.

(3) For the purposes of paragraph (3) of subdivision (b) of Section 10608.20 and Section 10608.22, the urban retail water supplier’s estimate of its average gross daily water use per capita, reported in gallons per capita per day and calculated over a continuous five-year period ending in 2007 or later.

(c) “Baseline commercial, industrial, and institutional water use” means an urban retail water supplier’s base daily per capita water use for commercial, industrial, and institutional users.

(d) “Commercial water user” means a water user that provides or distributes a product or service.

(e) “Compliance daily per capita water use” means the gross daily water use per capita during the final year of the reporting period, reported in gallons per capita per day.

1 (f) “Disadvantaged community” means a community with an
2 annual median household income that is less than 80 percent of
3 the statewide annual median household income.

4 (g) “Gross water use” means the total volume of water, whether
5 treated or untreated, entering the distribution system of an urban
6 retail water supplier, excluding all of the following:

7 (1) Recycled water, as defined in subdivision (l), that is delivered
8 within the service area of an urban retail water supplier or its urban
9 wholesale water supplier.

10 (2) The net volume of water that the urban retail water supplier
11 places into long-term storage.

12 (3) The volume of water the urban retail water supplier conveys
13 for use by another urban water supplier.

14 (4) The volume of water delivered for agricultural use.

15 (h) “Industrial water user” means a water user that is primarily
16 a manufacturer or processor of materials as defined by the Standard
17 Industrial Classifications Code numbers 2000 to 3999, inclusive.

18 (i) “Institutional water user” means a water user dedicated to
19 public service. This includes higher education institutions, schools,
20 courts, churches, hospitals, and government facilities.

21 (j) “Interim urban water use target” means:

22 (1) Except as provided in paragraph (2), the midpoint between
23 the urban retail water supplier’s base daily per capita water use
24 and the urban retail water supplier’s urban water use target for
25 2020.

26 (2) For the purposes of paragraph (2) of subdivision (b) of
27 Section 10608.20, the sum of the following:

28 (A) For indoor residential and landscape uses, the midpoint as
29 described in paragraph (1).

30 (B) For commercial, industrial, and institutional uses, a
31 10-percent reduction from the baseline commercial, industrial, and
32 institutional water use.

33 (k) “Locally cost effective” means that the present value of the
34 local benefits of implementing an agricultural best management
35 practice is greater than or equal to the present value of the local
36 cost of implementing that measure.

37 (l) “Recycled water” means recycled water, as defined in
38 subdivision (n) of Section 13050, that is used to offset potable
39 demand, including recycled water supplies for indirect potable
40 reuse, that meet the following requirements:

1 (1) For groundwater recharge, water supplies that are all of the
2 following:

3 (A) Metered.

4 (B) Developed through planned investment.

5 (C) Treated to a minimum tertiary level.

6 (2) For spreading basins, water supplies that are all of the
7 following:

8 (A) Delivered within the service area of an urban retail water
9 supplier or its urban wholesale water supplier which helps an urban
10 retail water supplier meet its urban water use target.

11 (B) Metered.

12 (C) Treated to a minimum tertiary level.

13 (3) For reservoir augmentation, water supplies that meet the
14 criteria of paragraph (1) and are conveyed through a distribution
15 system constructed specifically for recycled water.

16 (m) "Regional water resources management" means any of the
17 following alternative sources of water:

18 (1) The capture of stormwater or rainwater.

19 (2) The use of recycled water.

20 (3) The desalination of brackish groundwater or seawater.

21 (4) The conjunctive use of surface water and groundwater in a
22 manner that is consistent with the safe yield of the groundwater
23 basin.

24 (n) "Reporting period" means the years for which an urban retail
25 water supplier reports compliance with the urban water use targets.

26 (o) "Urban retail water supplier" means a water supplier, either
27 publicly or privately owned, that directly provides municipal water
28 to more than 3,000 end users or that supplies more than 3,000
29 acre-feet of water annually at retail for municipal purposes.

30 (p) "Urban water use target" means the urban retail water
31 supplier's targeted future daily per capita water use.

32 (q) "Urban wholesale water supplier," either publicly or
33 privately owned, means a water supplier that provides more than
34 3,000 acre-feet of water annually at wholesale for municipal
35 purposes.

36 (r) "Water conservation" means the efficient management of
37 water resources for beneficial uses, preventing waste, or
38 accomplishing additional benefits with the same amount of water.

Chapter 3. Urban Water Suppliers

10608.16. (a) The state shall achieve a 20-percent reduction in urban per capita water use in California on or before December 31, 2020.

(b) The state shall make incremental progress towards the state target specified in subdivision (a) by reducing per capita water use by at least 10 percent on or before December 31, 2015.

10608.20. (a) (1) Each urban retail water supplier shall develop urban water use targets and an interim urban water use target by December 31, 2010. Urban retail water suppliers may elect to determine and report progress toward achieving these targets on an individual or regional basis, as provided in subdivision (a) of Section 10608.28, and may determine the targets on a fiscal year or calendar year basis.

(2) It is the intent of the Legislature that the urban water use targets described in subdivision (a) cumulatively result in a 20-percent reduction from the baseline daily per capita water use by 2020.

(b) An urban retail water supplier shall adopt one of the following methods for determining its urban water use target pursuant to subdivision (a):

(1) Eighty percent of the urban retail water supplier's baseline per capita daily water use.

(2) The per capita daily water use that is estimated using the sum of the following performance standards:

(A) For indoor residential water use, 55 gallons per capita daily water use as a provisional target. Upon completion of the department's 2016 report to the Legislature pursuant to Section 10608.42, this target may be adjusted.

(B) For landscape irrigated through dedicated or residential meters, water efficiency equivalent to the standards of the Model Water Efficient Landscape Ordinance set forth in Chapter 2.7 (commencing with Section 490) of Division 2 of Title 23 of the California Code of Regulations, as in effect the later of the year of the landscape's installation or 1992. An urban retail water supplier using this approach shall use satellite imagery, site visits, or other best available technology to develop an accurate estimate of landscaped areas.

1 (C) For commercial, industrial, and institutional uses, a
2 10-percent reduction in water use from the baseline commercial,
3 industrial, and institutional water use by 2020.

4 (3) For urban water suppliers that were members of the
5 California Urban Water Conservation Council prior to 1994, and
6 whose base daily per capita water use is at or below the applicable
7 state hydrologic region target, as set forth in the state's draft
8 20x2020 Water Conservation Plan (dated April 30, 2009), 95
9 percent of base daily per capita water use. If the service area of an
10 urban water supplier includes more than one hydrologic region,
11 the supplier shall apportion its service area to each region based
12 on population or area. An urban retail water supplier may adopt
13 the criteria in this paragraph for determining its urban water use
14 target only if its base daily per capita water use is at or below the
15 hydrologic region target for each region within its service area.

16 (c) An urban retail water supplier shall include in its urban water
17 management plan required pursuant to Part 2.6 (commencing with
18 Section 10610) due in 2010 the baseline daily per capita water use,
19 urban water use target, interim urban water use target, and
20 compliance daily per capita water use, along with the bases for
21 determining those estimates, including references to supporting
22 data.

23 (d) When calculating per capita values for the purposes of this
24 chapter, an urban retail water supplier shall determine population
25 using federal, state, and local population reports and projections.

26 (e) An urban retail water supplier may update its 2020 urban
27 water use target in its 2015 urban water management plan required
28 pursuant to Part 2.6 (commencing with Section 10610).

29 10608.22. Notwithstanding the method adopted by an urban
30 retail water supplier pursuant to Section 10608.20, an urban retail
31 water supplier's per capita daily water use reduction shall be no
32 less than 5 percent of base daily per capita water use as defined in
33 paragraph (3) of subdivision (b) of Section 10608.12.

34 10608.24. (a) Each urban retail water supplier shall meet its
35 interim urban water use target by December 31, 2015.

36 (b) Each urban retail water supplier shall meet its urban water
37 use target by December 31, 2020.

38 (c) An urban retail water supplier's compliance daily per capita
39 water use shall be the measure of progress toward achievement of
40 its urban water use target.

(d) (1) When determining compliance daily per capita water use, an urban retail water supplier may consider the following factors:

(A) Differences in evapotranspiration and rainfall in the baseline period compared to the compliance reporting period.

(B) Substantial changes to commercial or industrial water use resulting from increased business output and economic development that have occurred during the reporting period.

(C) Substantial changes to institutional water use resulting from fire suppression services or other extraordinary events that have occurred during the reporting period.

(2) If the urban retail water supplier elects to adjust its estimate of compliance daily per capita water use due to one or more of the factors described in paragraph (1), it shall provide the basis for, and data supporting, the adjustment in the report required by Section 10608.40.

10608.26. (a) In complying with this part, an urban retail water supplier shall conduct at least one public hearing to accomplish all of the following:

(1) Allow community input regarding the urban retail water supplier's implementation plan for complying with this part.

(2) Consider the economic impacts of the urban retail water supplier's implementation plan for complying with this part.

(3) Adopt a method, pursuant to subdivision (b) of Section 10608.20, for determining its urban water use target.

(b) In complying with this part, an urban retail water supplier shall avoid placing a disproportionate burden on any customer sector.

10608.28. (a) An urban retail water supplier may meet its urban water use target within its retail service area, or by any of the following:

(1) Through an urban wholesale water supplier.

(2) Through a regional agency authorized to plan and implement water conservation, including, but not limited to, an agency established under the Bay Area Water Supply and Conservation Agency Act (Division 31 (commencing with Section 81300)).

(3) Through a regional water management group.

(4) By an integrated regional water management funding area.

(5) By hydrologic region.

1 (6) Through other appropriate geographic scales for which
2 computation methods have been developed by the department.

3 (b) An urban retail water supplier may meet its urban water use
4 target entirely through efficiency gains in its residential water use
5 sector, entirely through efficiency gains in its landscape water use
6 sector, entirely through efficiency gains in its commercial,
7 institutional, and industrial sector, or through any combination
8 among these sectors.

9 10608.32. All costs incurred pursuant to this part by a water
10 utility regulated by the Public Utilities Commission may be
11 recoverable in rates subject to review and approval by the Public
12 Utilities Commission, and may be recorded in a memorandum
13 account and reviewed for reasonableness by staff of the Public
14 Utilities Commission.

15 10608.36. Urban wholesale water suppliers shall include in
16 the urban water management plans required pursuant to Part 2.6
17 (commencing with Section 10610) an assessment of their present
18 and proposed future measures, programs, and policies to help
19 achieve the water use reductions required by this part.

20 10608.40. Urban water retail suppliers shall report to the
21 department on their progress in meeting their urban water use
22 targets as part of their urban water management plans submitted
23 pursuant to Section 10631.

24 10608.42. The department shall review the 2015 urban water
25 management plans and report to the Legislature by December 31,
26 2016, on progress towards achieving a 20-percent reduction in
27 urban water use by 2020. The report may include recommendations
28 on changes to water efficiency standards or urban water use targets
29 in order to achieve the 20-percent reduction and to reflect updated
30 efficiency information and technology changes.

31 10608.43. The department shall, in conjunction with the
32 California Urban Water Conservation Council, by April 1, 2010,
33 convene a task force consisting of experts to develop alternative
34 best management practices for commercial, industrial, and
35 institutional users and an assessment of the potential statewide
36 reduction in water use in the commercial, industrial, and
37 institutional sectors that would result from implementation of these
38 best management practices. The task force shall submit a report
39 to the Legislature by April 1, 2012, that shall include a review of
40 multiple sectors within commercial, industrial, and institutional

1 users and that shall establish water use efficiency standards for
2 commercial, industrial, and institutional users among various
3 sectors of water use, those sectors shall be based on consideration
4 of, but not limited to, the following:

5 (a) Appropriate metrics for evaluating commercial, industrial,
6 and institutional water use.

7 (b) Evaluation of water demands for manufacturing processes,
8 goods, and cooling.

9 (c) Evaluation of public infrastructure necessary for delivery of
10 recycled water to the commercial, industrial, and institutional
11 sectors.

12 (d) Evaluation of institutional and economic barriers to increased
13 recycled water use within the commercial, industrial, and
14 institutional sectors.

15 (e) Identification of technically feasible best management
16 practices to achieve more efficient water use statewide in the
17 commercial, industrial, and institutional sectors that is consistent
18 with the public interest and reflects past investments in water use
19 efficiency.

20 10608.44. State agencies shall reduce water use on facilities
21 they own or operate to support urban retail water suppliers in
22 meeting the target identified in Section 10608.16.

23 24 Chapter 4. Agricultural Water Suppliers

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26 10608.48. (a) On or before July 31, 2012, an agricultural water
27 supplier shall implement efficient water management practices
28 pursuant to subdivisions (b) and (c).

29 (b) Agricultural water suppliers shall implement all of the
30 following critical efficient management practices:

31 (1) Measure the volume of water delivered to customers with
32 sufficient accuracy to comply with subdivision (a) of Section
33 531.10 and to implement volumetric pricing pursuant to paragraph
34 (4).

35 (2) Designate a water conservation coordinator who will develop
36 and implement the water management plan and prepare progress
37 reports.

38 (3) Provide for the availability of water management services
39 to water users. These services may include, but are not limited to,
40 all of the following:

- 1 (A) On-farm irrigation and drainage system evaluations.
- 2 (B) Normal year and real-time irrigation scheduling and crop
- 3 evapotranspiration information.
- 4 (C) Surface water, groundwater, and drainage water quantity
- 5 and quality data.
- 6 (D) Agricultural water management educational programs and
- 7 materials for farmers, staff, and the public.
- 8 (4) Adopt a pricing structure for water customers based at least
- 9 in part on quantity delivered.
- 10 (5) Evaluate the policies of agencies that provide the supplier
- 11 with water to identify the potential for institutional changes to
- 12 allow more flexible water deliveries and storage.
- 13 (6) Evaluate and improve the efficiencies of the supplier's
- 14 pumps.
- 15 (c) Agricultural water suppliers shall implement additional
- 16 efficient management practices, including, but not limited to,
- 17 practices to accomplish all of the following, if the measures are
- 18 locally cost effective and technically feasible:
- 19 (1) Facilitate alternative land use for lands with exceptionally
- 20 high water duties or whose irrigation contributes to significant
- 21 problems, including drainage.
- 22 (2) Facilitate use of available recycled water that otherwise
- 23 would not be used beneficially, meets all health and safety criteria,
- 24 and does not harm crops or soils.
- 25 (3) Facilitate the financing of capital improvements for on-farm
- 26 irrigation systems.
- 27 (4) Implement an incentive pricing structure that promotes one
- 28 or more of the following goals:
- 29 (A) More efficient water use at the farm level.
- 30 (B) Conjunctive use of groundwater.
- 31 (C) Appropriate increase of groundwater recharge.
- 32 (D) Reduction in problem drainage.
- 33 (E) Improved management of environmental resources.
- 34 (F) Effective management of all water sources throughout the
- 35 year by adjusting seasonal pricing structures based on current
- 36 conditions.
- 37 (5) Expand line or pipe distribution systems, and construct
- 38 regulatory reservoirs to increase distribution system flexibility and
- 39 capacity, decrease maintenance, and reduce seepage.

1 (6) Increase flexibility in water ordering by, and delivery to,
2 water customers within operational limits.

3 (7) Construct and operate supplier spill and tailwater recovery
4 systems.

5 (8) Increase planned conjunctive use of surface and groundwater
6 within the supplier service area.

7 (9) Automate canal control structures.

8 (10) Facilitate or promote customer pump testing and evaluation.

9 (d) Agricultural water suppliers shall report to the department
10 on which efficientw ater management practices have been
11 implemented and are planned to be implemented, an estimate of
12 the water savings that have occurred since the last report, and an
13 estimate of the water savings estimated to occur five and 10 years
14 in the future. If an agricultural water supplier determines that a
15 efficientw ater management practice is not locally cost effective
16 or technically feasible, the supplier shall submit information
17 documenting that determination.

18 (e) The reports shall be submitted to the department on or before
19 December 31, 2012, and thereafter in years ending in zero and
20 years ending in five.

21 (f) Agricultural water supplier reporting requirements may be
22 met through the submission to the department of an agricultural
23 water management plan required pursuant to Section 10820, or
24 developed for the United States Bureau of Reclamation that is
25 consistent with this part.

26 (g) The reports shall be submitted using a standardized form
27 developed pursuant to Section 10608.52.

28 (h) On or before December 31, 2013, December 31, 2016, and
29 December 31, 2021, the department, in consultation with the state
30 board, shall submit to the Legislature a report on the agricultural
31 efficientw ater management practices that have been implemented
32 and are planned to be implemented and an assessment of the
33 manner in which the implementation of those efficientw ater
34 management practices has affected and will affect agricultural
35 operations, including estimated water savings, if any.

36 (i) The department may update the best management practices
37 required pursuant to subdivisions (b) and (c), in consultation with
38 the Agricultural Water Management Council, the United States
39 Bureau of Reclamation, and the state board. All best management
40 practices for agricultural water use pursuant to this chapter shall

1 be adopted or revised by the department only after the department
2 conducts public hearings to allow participation of the diverse
3 geographical areas and interests of the state.

4 5 Chapter 5. Sustainable Water Management 6

7 10608.50. (a) It is the intent of the Legislature by enactment
8 of this part to promote implementation of regional water resource
9 management practices through increased incentives and removal
10 of barriers. Potential changes may include, but are not limited to,
11 all of the following:

12 (1) Revisions to the requirements for urban and agricultural
13 water management plans.

14 (2) Revisions to the requirements for integrated regional water
15 management plans.

16 (3) Revisions to the eligibility for state water management grants
17 and loans.

18 (4) Revisions to state or local permitting requirements.

19 (5) Increased funding for research, feasibility studies, and project
20 construction.

21 (6) Expanding technical and educational support for local land
22 use and water management agencies.

23 (b) No later than January 1, 2011, and updated as part of the
24 California Water Plan pursuant to Section _____, the department,
25 in consultation with the board, and with public input, shall develop
26 new statewide targets, or review and update existing statewide
27 targets, for regional water resources management practices
28 including, but not limited to, recycled water, brackish and seawater
29 desalination, and infiltration and direct use of urban stormwater
30 runoff.

31 32 Chapter 5.5. Standardized Data Collection 33

34 10608.52. (a) The department, in consultation with the board,
35 the California Bay-Delta Authority, the State Department of Public
36 Health, and the Public Utilities Commission, shall develop a single
37 standardized water use reporting form to meet the water use
38 information needs of each agency, including the needs of urban
39 water suppliers that elect to determine and report progress toward

1 achieving targets on a regional basis as provided in subdivision
2 (a) of Section 10608.28.

3 (b) At a minimum, the form shall be developed to accommodate
4 information sufficient to assess an urban water supplier's
5 compliance with conservation targets pursuant to Section 10608.24
6 and an agricultural water supplier's compliance with
7 implementation of best management practices pursuant to
8 subdivision (a) of Section 10608.48. The form shall accommodate
9 reporting by water suppliers on an individual or regional basis as
10 provided in subdivision (a) of Section 10608.28.

11 Chapter 6. Funding Provisions

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13
14 10608.56. (a) Beginning July 1, 2016, the terms of, and
15 eligibility for, a water management grant or loan made to urban
16 retail water suppliers and awarded or administered by the
17 department, board, or California Bay-Delta Authority or its
18 successor agency shall be conditioned on the implementation of
19 Chapter 3 (commencing with Section 10608.16).

20 (b) Beginning July 1, 2013, the terms of, and eligibility for, a
21 water management grant or loan made to agricultural water
22 suppliers and awarded or administered by the department, board,
23 or California Bay-Delta Authority or its successor agency shall be
24 conditioned on the implementation of Chapter 4 (commencing
25 with Section 10608.48).

26 (c) Notwithstanding subdivision (a), the department shall
27 determine that an urban retail water supplier is eligible for a water
28 management grant or loan even though the supplier has not met
29 the per capita reductions required pursuant to Section 10608.24,
30 if the urban retail water supplier has submitted to the department
31 for approval a schedule, financing plan, and budget, to be included
32 in the grant or loan agreement, for achieving the per capita
33 reductions. The supplier may request grant or loan funds to achieve
34 the per capita reductions to the extent the request is consistent with
35 the eligibility requirements applicable to the water management
36 funds.

37 (d) Notwithstanding subdivision (b), the department shall
38 determine that an agricultural water supplier is eligible for a water
39 management grant or loan even though the supplier is not
40 implementing all of the best management practices described in

Section 10608.48, if the agricultural water supplier has submitted to the department for approval a schedule, financing plan, and budget, to be included in the grant or loan agreement, for implementation of the best management practices. The supplier may request grant or loan funds to implement the best management practices to the extent the request is consistent with the eligibility requirements applicable to the water management funds.

(e) Notwithstanding subdivision (a), the department shall determine that an urban retail water supplier is eligible for a water management grant or loan even though the supplier has not met the per capita reductions required pursuant to Section 10608.24, if the urban retail water supplier has submitted to the department for approval documentation demonstrating that their entire service area qualifies as a disadvantaged community.

10608.60. (a) It is the intent of the Legislature that funds made available by Section 75026 of the Public Resources Code should be expended, consistent with Division 43 (commencing with Section 75001) of the Public Resources Code and upon appropriation by the Legislature, for grants to implement this part. In the allocation of funding, it is the intent of the Legislature that the department give consideration to disadvantaged communities to assist in implementing the requirements of this part.

(b) It is the intent of the Legislature that funds made available by Section 75041 of the Public Resources Code should be expended consistent with Division 43 (commencing with Section 75001) of the Public Resources Code and, upon appropriation by the Legislature, for direct expenditures to implement this part.

Chapter 7. Quantifying Agricultural Water Use Efficiency

10608.64. The department, in consultation with the Agricultural Water Management Council, academic experts, and other stakeholders, shall develop a methodology for quantifying the efficiency of agricultural water use. Alternatives to be assessed shall include, but not be limited to, determination of efficiency levels based on crop type or irrigation system distribution uniformity. On or before December 31, 2011, the department shall report to the Legislature on a proposed methodology and a plan for implementation. The plan shall include the estimated

1 implementation costs and the types of data needed to support the
2 methodology.

3 SEC. 2. Section 10631.5 of the Water Code is amended to read:

4 10631.5. (a) (1) Beginning January 1, 2009, the terms of, and
5 eligibility for, a water management grant or loan made to an urban
6 water supplier and awarded or administered by the department,
7 state board, or California Bay-Delta Authority or its successor
8 agency shall be conditioned on the implementation of the water
9 demand management measures described in Section 10631, as
10 determined by the department pursuant to subdivision (b).

11 (2) For the purposes of this section, water management grants
12 and loans include funding for programs and projects for surface
13 water or groundwater storage, recycling, desalination, water
14 conservation, water supply reliability, and water supply
15 augmentation. This section does not apply to water management
16 projects funded by the *federal* American Recovery and
17 Reinvestment Act of 2009 (Public Law 111-5).

18 (3) Notwithstanding paragraph (1), the department shall
19 determine that an urban water supplier is eligible for a water
20 management grant or loan even though the supplier is not
21 implementing all of the water demand management measures
22 described in Section 10631, if the urban water supplier has
23 submitted to the department for approval a schedule, financing
24 plan, and budget, to be included in the grant or loan agreement,
25 for implementation of the water demand management measures.
26 The supplier may request grant or loan funds to implement the
27 water demand management measures to the extent the request is
28 consistent with the eligibility requirements applicable to the water
29 management funds.

30 (4) (A) Notwithstanding paragraph (1), the department shall
31 determine that an urban water supplier is eligible for a water
32 management grant or loan even though the supplier is not
33 implementing all of the water demand management measures
34 described in Section 10631, if an urban water supplier submits to
35 the department for approval documentation demonstrating that a
36 water demand management measure is not locally cost effective.
37 If the department determines that the documentation submitted by
38 the urban water supplier fails to demonstrate that a water demand
39 management measure is not locally cost effective, the department
40 shall notify the urban water supplier and the agency administering

1 the grant or loan program within 120 days that the documentation
2 does not satisfy the requirements for an exemption, and include
3 in that notification a detailed statement to support the
4 determination.

5 (B) For purposes of this paragraph, “not locally cost effective”
6 means that the present value of the local benefits of implementing
7 a water demand management measure is less than the present value
8 of the local costs of implementing that measure.

9 (b) (1) The department, in consultation with the state board and
10 the California Bay-Delta Authority or its successor agency, and
11 after soliciting public comment regarding eligibility requirements,
12 shall develop eligibility requirements to implement the requirement
13 of paragraph (1) of subdivision (a). In establishing these eligibility
14 requirements, the department shall do both of the following:

15 (A) Consider the conservation measures described in the
16 Memorandum of Understanding Regarding Urban Water
17 Conservation in California, and alternative conservation approaches
18 that provide equal or greater water savings.

19 (B) Recognize the different legal, technical, fiscal, and practical
20 roles and responsibilities of wholesale water suppliers and retail
21 water suppliers.

22 (2) (A) For the purposes of this section, the department shall
23 determine whether an urban water supplier is implementing all of
24 the water demand management measures described in Section
25 10631 based on either, or a combination, of the following:

26 (i) Compliance on an individual basis.

27 (ii) Compliance on a regional basis. Regional compliance shall
28 require participation in a regional conservation program consisting
29 of two or more urban water suppliers that achieves the level of
30 conservation or water efficiency savings equivalent to the amount
31 of conservation or savings achieved if each of the participating
32 urban water suppliers implemented the water demand management
33 measures. The urban water supplier administering the regional
34 program shall provide participating urban water suppliers and the
35 department with data to demonstrate that the regional program is
36 consistent with this clause. The department shall review the data
37 to determine whether the urban water suppliers in the regional
38 program are meeting the eligibility requirements.

39 (B) The department may require additional information for any
40 determination pursuant to this section.

(3) The department shall not deny eligibility to an urban water supplier in compliance with the requirements of this section that is participating in a multiagency water project, or an integrated regional water management plan, developed pursuant to Section 75026 of the Public Resources Code, solely on the basis that one or more of the agencies participating in the project or plan is not implementing all of the water demand management measures described in Section 10631.

(c) In establishing guidelines pursuant to the specific funding authorization for any water management grant or loan program subject to this section, the agency administering the grant or loan program shall include in the guidelines the eligibility requirements developed by the department pursuant to subdivision (b).

(d) Upon receipt of a water management grant or loan application by an agency administering a grant and loan program subject to this section, the agency shall request an eligibility determination from the department with respect to the requirements of this section. The department shall respond to the request within 60 days of the request.

(e) The urban water supplier may submit to the department copies of its annual reports and other relevant documents to assist the department in determining whether the urban water supplier is implementing or scheduling the implementation of water demand management activities. In addition, for urban water suppliers that are signatories to the Memorandum of Understanding Regarding Urban Water Conservation in California and submit biennial reports to the California Urban Water Conservation Council in accordance with the memorandum, the department may use these reports to assist in tracking the implementation of water demand management measures.

(f) This section shall remain in effect only until July 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2016, deletes or extends that date.

SEC. 3. Part 2.8 (commencing with Section 10800) of Division 6 of the Water Code is repealed.

SEC. 4. Part 2.8 (commencing with Section 10800) is added to Division 6 of the Water Code, to read:

PART 2.8. AGRICULTURAL WATER MANAGEMENT
PLANNING

Chapter 1. General Declarations and Policy

10800. This part shall be known and may be cited as the Agricultural Water Management Planning Act.

10801. The Legislature finds and declares all of the following:

(a) The waters of the state are a limited and renewable resource.

(b) The California Constitution requires that water in the state be used in a reasonable and beneficial manner.

(c) Urban water districts are required to adopt water management plans.

(d) The conservation of agricultural water supplies is of great statewide concern.

(e) There is a great amount of reuse of delivered water, both inside and outside the water service areas.

(f) Significant noncrop beneficial uses are associated with agricultural water use, including streamflows and wildlife habitat.

(g) Significant opportunities exist in some areas, through improved irrigation water management, to conserve water or to reduce the quantity of highly saline or toxic drainage water.

(h) Changes in water management practices should be carefully planned and implemented to minimize adverse effects on other beneficial uses currently being served.

(i) Agricultural water suppliers that receive water from the Central Valley Project are required by federal law to prepare and implement water conservation plans.

(j) Agricultural water users applying for a permit to appropriate water from the board are required to prepare and implement water conservation plans.

10802. The Legislature finds and declares that all of the following are the policies of the state:

(a) The conservation of water shall be pursued actively to protect both the people of the state and the state's water resources.

(b) The conservation of agricultural water supplies shall be an important criterion in public decisions with regard to water.

(c) Agricultural water suppliers shall be required to prepare water management plans to achieve conservation of water.

Chapter 2. Definitions

10810. Unless the context otherwise requires, the definitions set forth in this chapter govern the construction of this part.

10811. “Agricultural water management plan” or “plan” means an agricultural water management plan prepared pursuant to this part.

10812. “Agricultural water supplier” has the same meaning as defined in Section 10608.12.

10813. “Customer” means a purchaser of water from a water supplier who uses water for agricultural purposes.

10814. “Person” means any individual, firm, association, organization, partnership, business, trust, corporation, company, public agency, or any agency of that entity.

10815. “Public agency” means any city, county, city and county, special district, or other public entity.

10816. “Urban water supplier” has the same meaning as set forth in Section 10617.

10817. “Water conservation” means the efficient management of water resources for beneficial uses, preventing waste, or accomplishing additional benefits with the same amount of water.

Chapter 3. Agricultural Water Management Plans

Article 1. General Provisions

10820. (a) An agricultural water supplier shall prepare and adopt an agricultural water management plan in the manner set forth in this chapter on or before December 31, 2012, and shall update that plan on December 31, 2015, and on or before December 31 every five years thereafter.

(b) Every supplier that becomes an agricultural water supplier after December 31, 2012, shall prepare and adopt an agricultural water management plan within one year after the date it has become an agricultural water supplier.

(c) A water supplier that indirectly provides water to customers for agricultural purposes shall not prepare a plan pursuant to this part without the consent of each agricultural water supplier that directly provides that water to its customers.

1 10821. (a) An agricultural water supplier required to prepare
2 a plan pursuant to this part shall notify each city or county within
3 which the supplier provides water supplies that the agricultural
4 water supplier will be preparing the plan or reviewing the plan and
5 considering amendments or changes to the plan. The agricultural
6 water supplier may consult with, and obtain comments from, each
7 city or county that receives notice pursuant to this subdivision.

8 (b) The amendments to, or changes in, the plan shall be adopted
9 and submitted in the manner set forth in Article 3 (commencing
10 with Section 10840).

11
12 Article 2. Contents of Plans
13

14 10825. (a) It is the intent of the Legislature in enacting this
15 part to allow levels of water management planning commensurate
16 with the numbers of customers served and the volume of water
17 supplied.

18 (b) This part does not require the implementation of water
19 conservation programs or practices that are not locally cost
20 effective.

21 10826. An agricultural water management plan shall be adopted
22 in accordance with this chapter. The plan shall do all of the
23 following:

24 (a) Describe the agricultural water supplier and the service area,
25 including all of the following:

- 26 (1) Size of the service area.
27 (2) Location of the service area and its water management
28 facilities.
29 (3) Terrain and soils.
30 (4) Climate.
31 (5) Operating rules and regulations.
32 (6) Water delivery measurements or calculations.
33 (7) Water rate schedules and billing.
34 (8) Water shortage allocation policies.

35 (b) Describe the quantity and quality of water resources of the
36 agricultural water supplier, including all of the following:

- 37 (1) Surface water supply.
38 (2) Groundwater supply.
39 (3) Other water supplies.
40 (4) Source water quality monitoring practices.

- 1 (5) Water uses within the agricultural water supplier's service
- 2 area, including all of the following:
- 3 (A) Agricultural.
- 4 (B) Environmental.
- 5 (C) Recreational.
- 6 (D) Municipal and industrial.
- 7 (E) Groundwater recharge.
- 8 (F) Transfers and exchanges.
- 9 (G) Other water uses.
- 10 (6) Drainage from the water supplier's service area.
- 11 (7) Water accounting, including all of the following:
- 12 (A) Quantifying the water supplier's water supplies.
- 13 (B) Tabulating water uses.
- 14 (C) Overall water budget.
- 15 (8) Water supply reliability.
- 16 (c) Include an analysis, based on available information, of the
- 17 effect of climate change on future water supplies.
- 18 (d) Describe previous water management activities.
- 19 (e) Include in the plan the water use efficiency information
- 20 required pursuant to Section 10608.48.
- 21 10827. Agricultural water suppliers that are members of the
- 22 Agricultural Water Management Council, and that submit water
- 23 management plans to that council in accordance with the
- 24 "Memorandum of Understanding Regarding Efficient Water
- 25 Management Practices By Agricultural Water Suppliers In
- 26 California," dated January 1, 1999, may submit the water
- 27 management plans identifying water demand management
- 28 measures currently being implemented, or scheduled for
- 29 implementation, to satisfy the requirements of Section 10826.
- 30 10828. (a) Agricultural water suppliers that are required to
- 31 submit water conservation plans to the United States Bureau of
- 32 Reclamation pursuant to either the Central Valley Project
- 33 Improvement Act (Public Law 102-575) or the Reclamation
- 34 Reform Act of 1982, or both, may submit those water conservation
- 35 plans to satisfy the requirements of Section 10826, if both of the
- 36 following apply:
- 37 (1) The agricultural water supplier has adopted and submitted
- 38 the water conservation plan to the United States Bureau of
- 39 Reclamation within the previous four years.

1 (2) The United States Bureau of Reclamation has accepted the
2 water conservation plan as adequate.

3 (b) This part does not require agricultural water suppliers that
4 are required to submit water conservation plans to the United States
5 Bureau of Reclamation pursuant to either the Central Valley Project
6 Improvement Act (Public Law 102-575) or the Reclamation
7 Reform Act of 1982, or both, to prepare and adopt water
8 conservation plans according to a schedule that is different from
9 that required by the United States Bureau of Reclamation.

10 10829. An agricultural water supplier may satisfy the
11 requirements of this part by adopting an urban water management
12 plan pursuant to Part 2.6 (commencing with Section 10610) or by
13 participation in areawide, regional, watershed, or basinwide water
14 management planning if those plans meet or exceed the
15 requirements of this part.

16
17 Article 3. Adoption and Implementation of Plans
18

19 10840. Every agricultural water supplier shall prepare its plan
20 pursuant to Article 2 (commencing with Section 10825).

21 10841. Prior to adopting a plan, the agricultural water supplier
22 shall make the proposed plan available for public inspection, and
23 shall hold a public hearing on the plan. Prior to the hearing, notice
24 of the time and place of hearing shall be published within the
25 jurisdiction of the publicly owned agricultural water supplier
26 pursuant to Section 6066 of the Government Code. A privately
27 owned agricultural water supplier shall provide an equivalent notice
28 within its service area. After the hearing, the plan shall be adopted
29 as prepared or as modified during or after the hearing.

30 10842. An agricultural water supplier shall implement the plan
31 adopted pursuant to this chapter in accordance with the schedule
32 set forth in its plan, as determined by the governing body of the
33 agricultural water supplier.

34 10843. (a) An agricultural water supplier shall submit to the
35 entities identified in subdivision (b) a copy of its plan no later than
36 30 days after the adoption of the plan. Copies of amendments or
37 changes to the plans shall be submitted to the entities identified in
38 subdivision (b) within 30 days after the adoption of the
39 amendments or changes.

(b) An agricultural water supplier shall submit a copy of its plan and amendments or changes to the plan to each of the following entities:

(1) The department.

(2) Any city, county, or city and county within which the agricultural water supplier provides water supplies.

(3) Any groundwater management entity within which jurisdiction the agricultural water supplier extracts or provides water supplies.

(4) Any urban water supplier within which jurisdiction the agricultural water supplier provides water supplies.

(5) Any city or county library within which jurisdiction the agricultural water supplier provides water supplies.

(6) The California State Library.

(7) Any local agency formation commission serving a county within which the agricultural water supplier provides water supplies.

10844. (a) Not later than 30 days after the date of adopting its plan, the agricultural water supplier shall make the plan available for public review on the agricultural water supplier's Internet Web site.

(b) An agricultural water supplier that does not have an Internet Web site shall submit to the department, not later than 30 days after the date of adopting its plan, a copy of the adopted plan in an electronic format. The department shall make the plan available for public review on the department's Internet Web site.

10845. (a) The department shall prepare and submit to the Legislature, on or before December 31, 2013, and thereafter in the years ending in six and years ending in one, a report summarizing the status of the plans adopted pursuant to this part.

(b) The report prepared by the department shall identify the outstanding elements of any plan adopted pursuant to this part. The report shall include an evaluation of the effectiveness of this part in promoting efficient agricultural water management practices and recommendations relating to proposed changes to this part, as appropriate.

(c) The department shall provide a copy of the report to each agricultural water supplier that has submitted its plan to the department. The department shall also prepare reports and provide

1 data for any legislative hearing designed to consider the
2 effectiveness of plans submitted pursuant to this part.

3 (d) This section does not authorize the department, in preparing
4 the report, to approve, disapprove, or critique individual plans
5 submitted pursuant to this part.

6 7 Chapter 4. Miscellaneous Provisions 8

9 10850. (a) Any action or proceeding to attack, review, set
10 aside, void, or annul the acts or decisions of an agricultural water
11 supplier on the grounds of noncompliance with this part shall be
12 brought pursuant to Section 1085 of the Code of Civil Procedure,
13 and the court's review of compliance or noncompliance with this
14 part shall extend to whether the plan, or portion thereof, or revision
15 thereto, substantially complies with the requirements of this part.

16 (b) An action or proceeding alleging failure to adopt a plan shall
17 be commenced within 18 months after that adoption is required
18 by this part.

19 (c) Any action or proceeding alleging that a plan, or action taken
20 pursuant to the plan, does not comply with this part shall be
21 commenced within 120 days after submitting the plan or
22 amendments to the plan to entities in accordance with Section
23 10844 or the taking of that action.

24 (d) In an action or proceeding to attack, review, set aside, void,
25 or annul the acts or decisions of an agricultural water supplier
26 made pursuant to this part at a properly noticed public hearing, the
27 issues raised shall be limited to those raised in the public hearing,
28 or in written correspondence delivered to the agricultural water
29 supplier prior to, or at, the public hearing, except if the court finds
30 either of the following:

31 (1) The issue could not have been raised at the public hearing
32 by a person exercising reasonable diligence.

33 (2) The body conducting the public hearing prevented the issue
34 from being raised at the public hearing.

35 10851. The California Environmental Quality Act (Division
36 13 (commencing with Section 21000) of the Public Resources
37 Code) does not apply to the preparation and adoption of plans
38 pursuant to this part. This part does not exempt projects for
39 implementation of the plan or for expanded or additional water
40 supplies from the California Environmental Quality Act.

1 10852. An agricultural water supplier that does not prepare,
2 adopt, and submit its agricultural water management plan in
3 accordance with this part is ineligible to receive funds made
4 available pursuant to any program administered by the board, the
5 department, or the California Bay-Delta Authority, or participate
6 in any drought assistance program administered by the state, until
7 the agricultural water management plan is submitted pursuant to
8 this part.

9 SEC. 5. This act shall only become operative if _____ of the
10 2009–10 Regular Session of the Legislature are enacted and
11 become effective on or before January 1, 2010.

O